

**A RESOLUTION**

**03- R -1670**

**BY TRANSPORTATION COMMITTEE**

**A RESOLUTION AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE REIMBURSABLE AGREEMENT NO. SO-0560-07P WITH THE FEDERAL AVIATION ADMINISTRATION (FAA) FOR REIMBURSEMENT BY THE CITY OF ATLANTA TO THE FAA OF THE COST TO EVALUATE ALTERNATIVE SITES FOR THE POTENTIAL RELOCATION OF THE ATLANTA VERY HIGH FREQUENCY OMNIDIRECTIONAL RANGE COLLOCATED WITH TACTICAL AIR NAVIGATION AT HARTSFIELD ATLANTA INTERNATIONAL AIRPORT FOR A COST NOT TO EXCEED \$82,500.00, TO BE PAID FROM FUND ACCOUNT CENTER NO. 2H28 574001 R21E050693CH; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta (the "City"), as owner and operator of the Hartsfield Atlanta International Airport ("Airport"), is responsible for the cost of relocating FAA navigational facilities serving the Airport that are impacted by Airport expansion, including possibly the very high omnidirectional range collocated with tactical air navigation ("VORTAC"); and

**WHEREAS**, the Atlanta VORTAC is a FAA navigational aid located on the Airport's south airfield. Its current location is in close proximity to future Taxiways "W" and "Z", two taxiways that will connect the fifth runway with the existing airfield; and

**WHEREAS**, the presence of tall-tailed aircraft on either taxiway "W" or "Z" can degrade the quality of the VORTAC signal. The only way to guarantee that signal quality remains high is to relocate the VORTAC. Should relocation of the Atlanta VORTAC proceed, it will be a two to three year process that will require a relocation study prior to construction of the new site; and

**WHEREAS**, the FAA is in a position to furnish directly or by contract supplies, equipment and services which the City requires, has funds available for, and has determined should be obtained from the FAA.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA**, that the Mayor or her designee be and hereby is authorized to execute on behalf of the City of Atlanta a Reimbursable Agreement which shall provide for the FAA to perform the services described in that copy of said Agreement No. SO-0560-07P attached hereto as Attachment I and made a part hereof by reference, for a cost to the City not to exceed \$82,500.00, with provision for up to 10% overage in the anticipated maximum cost.

**BE IT FURTHER RESOLVED** that the cost to the City under said Agreement to be charged to and paid from Fund Account Center No. 2H28 574001 R21E050693CH.

**BE IT FURTHER RESOLVED** that the City Attorney be and hereby is directed to prepare said Agreement for execution by the Mayor.

**BE IT FINALLY RESOLVED** that said Agreement shall not become binding upon the City, and the City shall incur no obligation or liability thereunder until the same has been signed by the Mayor and delivered to the FAA.

**ATTACHMENT I**

AGREEMENT NUMBER  
SO-0560-07P

LIMITED REIMBURSABLE AGREEMENT  
BETWEEN  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
AND  
THE CITY OF ATLANTA, GEORGIA

WHEREAS, the Federal Aviation Administration ("FAA") is able to furnish directly or by contract, supplies, equipment, and services which the City of Atlanta ("Project Sponsor") requires, has funds available for, and has determined should be obtained from the FAA;

WHEREAS, it has been determined that competition with the private sector for provision of such supplies, equipment and services is minimal; the proposed activity will advance the FAA's mission; and the FAA has a unique capability that will be of benefit to Project Sponsor while helping to advance the Agency's mission.

WHEREAS, 49 USC Section 106(l) and (m) authorizes agreements and other transactions on such terms and conditions as the Administrator determines necessary.

NOW THEREFORE, the FAA and the Project Sponsor mutually agree as follows:

**ARTICLE I - Type of Agreement**

This Agreement is an "other transaction" within the meaning of 49 USC 106. It is not intended to be, nor shall it be construed as, a partnership, corporation, or other business organization.

**ARTICLE II - Scope of Agreement and Description of Project**

A. This is a preliminary agreement limited in scope to initiate FAA technical services, consultation, preliminary engineering, site surveys, cost estimates, planning, etc. to support the Project Sponsor's requirements pursuant to the project titled "Relocate Very High Frequency Omnidirectional Range Collocated with Tactical Air Navigation (VORTAC),

William B. Hartsfield Atlanta International Airport, Atlanta, Georgia". No government furnished equipment may be provided until a detailed amendment to this agreement specifying materials and costs has been signed by the Project Sponsor and the FAA. This agreement sets in motion preparatory actions required before the FAA may commit resources to the project. Specifically, it is the basis for issuance of a Project Authorization (PA) and establishment of a dedicated job number for project activities. If the project is pursued, a new agreement shall be drafted to include details describing the full scope of work to be performed, estimated total project costs, etc.

The Project Sponsor's reimbursement to the FAA under this agreement is estimated to be \$20,000 (including general administrative support overhead charges of \$5,200 in accordance with the rate established in Article IV).

#### ARTICLE III - Period of Agreement and Effective Date

The agreement is estimated to last one years, unless amended. It will be effective on the date of the last signature below, and be considered complete when the final bill has been paid.

#### ARTICLE IV - Reimbursement, Performance, and Accounting Arrangement

A. The Project Sponsor will reimburse the FAA quarterly for the project costs incurred by the FAA in fulfilling the terms under this agreement provided, however, that upon termination of the agreement as provided herein the Project Sponsor will reimburse the FAA for all necessary liquidating expenses.

B. In determining the costs to the FAA, there shall be included general administrative overhead cost based on the current rate of 26% of the project costs. This overhead represents the cost to the FAA of those indirect expenses that are a part of the cost of overhead agency operations. The overhead rate shall be adjusted automatically to the current rate, as determined by the FAA, without the necessity for formal amendment.

C. The FAA hereby assigns the responsibility for the accomplishment of this agreement to the Southern Region. The Accounting Division is identified by the FAA as the billing office for this agreement. Their mailing address is:

Federal Aviation Administration  
Accounting Operations Branch, ASO-22  
P.O. Box 45719  
Atlanta, Georgia 30320  
Telephone; (404) 305-7040

D. The Project Sponsor hereby identifies the office to which the FAA will render bills for the project costs incurred as:

Mr. Benjamin DeCosta, General Manager  
Department of Aviation, City of Atlanta  
William B Hartsfield Atlanta International Airport  
P. O Box 20509  
Atlanta, Georgia 30320-2509  
Telephone; (404) 530-6600

E. Billing will be made by FAA on SF-1114. The Reimbursable Bill Support List (a summary of cost by object class) will accompany all bills.

F. Estimates as contained in Article II are expected to be maximum, but may be adjusted to recover the FAA's actual costs. If during the course of this agreement, actual costs are expected to exceed the estimated costs by 10%, the FAA will notify the Project Sponsor as soon as this is known in order to initiate an amendment to the agreement. In the event that actual costs exceed the FAA estimate, the Project Sponsor will pay actual costs plus the required overhead. Similarly, if the actual costs are less than the FAA estimate, the Project Sponsor will pay only the actual costs plus the required overhead.

G. Payments for billing are due within 30 days of date of invoice. Late charges will be assessed on delinquent payments in accordance with United States Treasury Regulations (Treasury Fiscal Requirements Manual, section 6-8020.20). Late charges are computed by

multiplying the amount of the overdue payment by the percentage rate prescribed quarterly by the Department of Treasury for each 30-day, or portion thereof, during which payments are overdue.

#### ARTICLE V - Amendment

Changes and or modifications to this agreement shall be made by written amendment, signed by authorized representatives of each party.

The amounts set forth in this agreement are estimates and may require adjustment to reflect actual costs. If, during the course of this agreement, actual costs are expected to exceed the estimate by more than 10 percent, the FAA will notify the Project Sponsor as soon as it is known, and the parties shall execute an Amendment accordingly.

#### ARTICLE VI - Liability

To the extent permitted by law, the Project Sponsor agrees to hold harmless the FAA, its officers, agents and employees, from all causes of action, suits or claims arising out of the work performed under this agreement. However, to the extent that such claim is alleged to have arisen from the act or omission by an employee of the FAA acting within the scope of his or her employment, this hold harmless obligation shall not apply and the provisions of the Federal Torts Claims Act, 28 U.S. Code, Section 2671, et, seq., shall control. The FAA assumes no liability for any losses arising out of any action or inaction by the Project Sponsor, its employees, or contractors, or any third party acting on its behalf.

#### ARTICLE VII - Damage to FAA Property

Except for damage to or destruction of FAA property caused by the FAA or any FAA personnel, the Project Sponsor agrees to reimburse the FAA for any damage to or destruction of FAA property arising out of work under this agreement.

#### ARTICLE IX - Termination

This agreement may be terminated at any time by either party by providing 30 days notice in writing.

#### ARTICLE X - Disputes

Where possible, disputes will be resolved by informal discussion between the parties. In the event the parties are unable to resolve any disagreement through good faith negotiations, the dispute may be resolved by the FAA Administrator, or designee whose decision is not subject to further administrative review and, to the extent permitted by law, is final and binding (see e.g. 49 USC 46110).

#### ARTICLE XI - Funds Availability

The Project Sponsor certifies that arrangements for sufficient funding appropriations have been made for payments of the estimated costs set forth above, plus 10%.

#### ARTICLE XII - Construction of the Agreement

This agreement is an "other transaction" issued under 49 USC 106(l) and (m) and is not a procurement contract, grant or cooperative agreement. Nothing in this agreement shall be construed as incorporating by reference or implication any provision of Federal acquisition law or regulation.

Each party acknowledges that all parties hereto participated equally in the negotiation and drafting of this agreement and any amendments thereto, and that, accordingly, this agreement shall not be construed more stringently against one party than against the other.

#### ARTICLE XIII - Warranties

The FAA makes no express or implied warranties as to any matter arising under this agreement, or as to the ownership, merchantability or fitness for a particular purpose of any

property, including any equipment, device or software that may be provided under this agreement.

ARTICLE XIV - Protection of Information

The parties agree that they shall take appropriate measures to protect proprietary, privileged, or otherwise confidential information that may come into their possession as a result of this Agreement.

ARTICLE XV - Entire Agreement

This document is the entire agreement of the parties, who accept the terms of the agreement as shown by their signatures below. In the event the parties duly execute any amendment to the agreement, the terms of such amendment shall supersede the terms of this agreement to the extent of any inconsistency.

**FEDERAL AVIATION ADMINISTRATION**

**CITY OF ATLANTA**

SIGNED BY _____	SIGNED BY _____
NAME _____	NAME _____
TITLE <u>Mgr, Acquisition &amp; Real Estate Branch</u>	TITLE _____
DATE _____	DATE _____

**Agency Location Code/Taxpayer ID# \_\_\_\_\_**